

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DIANE RICE**, on January 28, 2003 at 3:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Verdeell Jackson, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Norman Ballantyne (D)
Rep. Bob Bergren (D)
Rep. Norma Bixby (D)
Rep. Carol Lambert (R)
Rep. Jim Peterson (R)
Rep. Brennan Ryan (D)
Rep. Veronica Small-Eastman (D)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Bill Thomas (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Bruce Malcolm (R)

Members Absent: None.

Staff Present: Lisa Gallagher, Committee Secretary
Krista Lee Evans, Legislative Branch

Audio-only Committees: These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp refers to the material that immediately follows.

Committee Business Summary:

Hearing & Date Posted: HB 378, 1/21/2003; HB 379,
1/21/2003
Executive Action: HB 299

HEARING ON HB 379

Sponsor: REPRESENTATIVE RICK RIPLEY, HD 50, Wolf Creek

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.2}

REP. RIPLEY said that what this bill does is protects the rights of private property owners, and what it does not do is create any new game farms. The game farms that were in place before I-143 passed would be grandfathered in. This bill has nothing to do with chronic waste disease (CWD), and neither did I-143. What this will do is return private property rights back to the owner. Alternative livestock is private property and with the passing of I-143 private property was taken. House Bill 379 returns private property rights back to the owner. Alternative livestock is taxed as private property, assessed as private property, and assessed capital fees. This state cannot afford any takings lawsuits, and I-143 is a takings lawsuit. Currently there are five lawsuits pending. **REP. RIPLEY** handed out a summary of HB 379.

EXHIBIT(agh18a01)

REP. RIPLEY stated that there is a fiscal note with this bill. He did not sign the fiscal note because he disagrees with the \$30,000. He believes that it should be a \$170,000 savings, because in 1999 SB 361 appropriated \$200,000.

Proponents' Testimony:

REP. ALAN OLSON, HD 8, stated that he wrote to the Department of Livestock and Fish Wildlife and Parks (FWP) with a bunch of questions in regard to alternative livestock. He put together a report with the facts about I-143. He also stated that he is in full support of this bill. **REP. OLSEN** handed out the answers to his questions from the Department of Livestock and the FWP.

EXHIBIT(agh18a02).

REP. OLSEN submitted his written testimony.

EXHIBIT(agh18a03)

{Tape: 1; Side: A; Approx. Time Counter: 9.7 - 13.3}

Becky Mesaros, Rancher, Cascade County, stated that they used to be in the grain growing industry; however, it was not profitable so they looked into diversifying and decided to go with alternative livestock. They underwent a review by the Fish Wildlife and Parks (FWP) and the Montana Environmental Policy Act

(MEPA). She handed out to the committee the decision document provided by FWP.

EXHIBIT (agh18a04)

Ms. Mesaros also stated that the alternative livestock industry is a good industry and it has good regulations. She stated that the disease is regulated on their side of the fence and she would like to see the disease regulated on the other side of the fence.

Howie Low, Contractor, Great Falls, said, that "The State should not put anyone out of business. If they are in business then so am I." He is a hunter safety instructor and he sees nothing wrong with this type of hunting. He stated that there is hypocrisy in this bill. For example, it is ok for a landowner to charge a fee to go hunting, but it is not ok for these people. Also, it is ok for people to own bison and pheasants, but it is not ok for these people to own elk. He said, "this is something I do not understand, and please take this all into consideration on this bill."

Cindy Kafka, Rancher, Havre stated that they are third-generation ranchers and because of the economy, they diversified and went with the elk industry. They went through the licensing process, and after the passage of I-143 they were stripped of it. The Montana Fish Wildlife and Parks issued them their license and has now compared their business to child pornographers, drug dealers, and prostitution. She said, "In the State's eyes, they have the right to tell us what we can use our property for." The rights of Montana's private property owners have been taken away. Initiative 143 was not about hunting or CWD, it was about destroying a viable Montana industry. When people voted for I-143, they did not know what they were voting for, and they thought that the current game farms would be grandfathered in. Montanan's were misinformed and misled on this initiative. This is our heritage and we need this back.

Tony Belcourt, Chipawa Tribe, stated that these people need to stay in business to help the economy. The Chipawa tribe has a game farm that borders their tribal nation and this game farm has worked with them and do not see anything wrong with it. They also use a lot of the bi-products from the elk for their traditional customs.

Kyle Morken, Guide for Elk Ranch, Kalispell, stated that they are good hunts, but they are not always an easy hunt. The clients that come out not only spend money to hunt, but they also spend money in the local communities.

Dave McClure, President of the Montana Farm Bureau, said that they are in support of this bill because it is the right of the private property owner if they want to raise elk without the control of the government. They are supporters of private property rights and look at the government to protect those rights. They feel that this was an unconstitutional taking, and this has subjected the State of Montana to certain liabilities. He stated that this bill should be passed and the rights of private property owners should be returned.

{Tape: 1; Side: A; Approx. Time Counter: 25 - 28.4}

Brian Tutvedt, Rancher & Farmer, Kalispell, stated that he would like to talk about fair chase. The definition of fair chase that he gave was, "a set of hunting conditions in which the individual decision maker judges the taking of prey as acceptably on certain and difficult for the hunter." He said, "That in other words, fair chase is an opinion." On game farms there is room to roam and there are escape paths. He said, "We should not be able to use long shot rifles, scopes, scent blocker, horses for transportation, or pointer dogs because that would not be a fair chase." This bill should be passed because a lot of the terms that are used are a matter of opinion.

Ed Smith, former Legislator, stated that he supports this bill. As long as the alternative livestock owners keep their animals in and the wild animals out, they should have the same rights.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3.2}

Charles Taylor, Big Sky Elk Ranch, Lewistown, read a letter to the committee.

EXHIBIT (agh18a05)

REP. MALCOLM came in.

Wess Plummer, Owner of Meat Processing Plant, Kalispell, stated that they do a lot of elk processing. The alternative stock is checked more than beef stock. They have done these hunts and these people are very excited about these hunts. Most of these people are not after the trophy bull. They are just regular people who want to hunt, and that is why this bill should be supported.

Bruce Babcock, Taxidermist, Kalispell, stated that elk ranching has had a big impact on his business. The Rocky Mountain Elk Foundation (RMEF) contacted him to do a mount of a cow in June, and the only legal way that he could obtain the hide was to go to a game farm. Then a couple of years ago, a sporting goods store

wanted a mount. He tried to buy the skins from the hunters but he had to go to a game farm to buy the hides. This grossed \$40,000 for his business and allowed him to employ another man. Game farming has had a big impact on his business, and without game farming, a big portion of his business will be lost.

{Tape: 1; Side: B; Approx. Time Counter: 8.3 - 15.7}

Phillis Taylor, Big Sky Elk Ranch, Lewistown, submitted her written testimony.

EXHIBIT (agh18a06)

Dr. John Smith, Veterinarian, Three Forks, stated that this bill should be supported and the private property rights should be restored to the landowners. Disease concerns should not be an issue, because the regulations are the tightest in his profession. They are closely watched and regulated as far as health goes. The owners have worked with the Department of Livestock and FWP and have worked out any problems with alternative livestock.

REP. JONATHAN WINDY BOY, HD 92, stated that we need to think outside the box, and alternative livestock farming is doing that. Before I-143 there were negotiations with an elk farmer with his tribal nation, but this initiative put a halt on elk farming.

John Leavy, Kalispell, Veterinarian, stated that the Lower Valley Veterinarian Clinic has lost about 20% of its income because of I-143. They have had to let people go, and jobs are gone which were not minimum-wage jobs. If this bill does not go through, it will cost their business about \$10 million, which is real money. House Bill 379 will definitely help the economy.

Pat Corbett, Yellowstone Game Ranch, Sidney, submitted his written testimony.

EXHIBIT (agh18a07)

Sharon Krogedal, Sandhill Ranch, Froid, said that they are asking for the Committee's support on this bill. She also submitted an exhibit to the Committee.

EXHIBIT (agh18a08)

Gerre Backes, Elk Rancher, Kalispell, read a letter for the Sidney Chamber of Commerce.

EXHIBIT (agh18a09)

{Tape: 1; Side: B; Approx. Time Counter: 22.8 - 30}

Bill Bloom, Elk Rancher, Miles City, stated that I-143 has ruined his business, and would like the Committee's support for HB 379.

REP. DON HEDGES, HD 97, stated that he supports this bill.

REP. JOHN WITT, HD 89, stated that he supports this bill.

REP. CAROL LAMBERT, HD 1, stated that she supports this bill.

REP. DONALD STEINBEISSER, HD 100, stated that he supports this bill.

Gary Amestoy, Richland Economic Development, submitted a letter from Leslie Messer.

EXHIBIT (agh18a10)

Ty Hilger, Sand Hill Ranch, stated that she supports this bill.

Opponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 0 - 5.2}

Stan Frasier, Helena, stated that the public has already decided this. Senate Bill 7 said that there would be no new game farms until the CWD tests were in. That disrupted I-143, but they still collected 27,000 signatures so that they could get this issue on the ballot. When they were collecting signatures, the complaints that they heard were that the shooting of pinned animals was disgusting. Since the passing of I-143, there have been no new cases of CWD found. Chronic wasting disease is spread by the movement of the animals. There is no live test, so the animals do not show any symptoms. Game farming in Canada has been a disaster, and game farmers in Saskatchewan are now suing the government because they have lost so much money. Stan Frasier handed out a packet about game farms and CWD facts to the committee.

EXHIBIT (agh18a11)

{Tape: 2; Side: A; Approx. Time Counter: 5.3 - 10.2}

Robert Throssell, Montana Wildlife Federation, stated that he was here in opposition to this bill and that HB 379 would go against the voters of this State. Little has changed over the last two years to change this law. The people of Montana voted to limit the game farms of this State, and now HB 379 is second-guessing the will of the people. The courts will decide if the State of Montana is illegally taking the private property rights away from

landowners. Every time the legislature passes a law it impacts the rights of the people in this State. When people feel like their rights are being infringed upon they seek court review. If there was worry about infringing upon personal rights then no bills would be passed. This is a premature bill that will second-guess the will of the people. He urged the committee to not undo the will of the people and to not undo I-143.

{Tape: 2; Side: A; Approx. Time Counter: 10.3 - 15.7}

Jack Tuholske, Sportsman's for I-143, Attorney, submitted his written testimony.

EXHIBIT(agh18a12)

Beth Brennan, Sportsman's for I-143, Attorney, talked about constitutional law. She said that takings law is the regulatory law, which means that the way you can use it is regulated by the government. The question in takings law is to what extent have the uses been taken away. None of these cases that have been filed have been decided yet; however, there have been cases throughout history that set a precedence. The best example is prohibition. These people had millions of dollars worth of distilling equipment and alcohol. The United States Supreme Court decided that there was no compensable takings, because it was fully within the duties to exercise the police powers. The Montana Supreme Court has decided that the regulation of game farms is within the valid police powers. The issue is going to be to what extent the uses have been curtailed. Let the courts decide if all the uses have been taken away.

{Tape: 2; Side: A; Approx. Time Counter: 21.6 - 25.6}

Jack Lyons, Wildlife Biologist, submitted his written testimony.

EXHIBIT(agh18a13)

Chris Marchion, Anaconda Sportsman Club, Anaconda, stated that he was a supporter of I-143 because of three main reasons. The first is the threat to the hunting heritage. The second is that it will cause the spread of CWD, and the third is the cost. It costs sportsman hundreds of thousands of dollars to license a game farm and deal with the clean-up costs of diseases and escapes. The language in I-143 is very clear so that it does not represent a takings. Initiative 143 is constitutional, otherwise it would not have had the effect that it has had. This bill has everything to do with CWD, because CWD is spread by the game farming industry through the transportation of elk. Currently CWD exists in deer and elk. However, there is an opportunity for it to cross to another species.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 2}

Lawrence Sickerson, Helena, submitted his written testimony.
EXHIBIT (agh18a14)

Bob Haburchak, Billings Rifle and Gun Club, stated that they oppose this bill.

Jim McDermund, Great Falls, stated that this bill puts at risk the native animals of Montana, and also puts at risk a multi-million-dollar hunting industry.

Stan Rauch, Montana Bow Hunters Association, stated that they are opposed to HB 379.

Louis Goosey, Livingston, stated that he is opposed to this bill.

A.J. Michmevich, stated that he was one of the original 13 people who drafted I-143, and that if HB 379 passes it will be a slap in the face.

Harold Holste, Stevensville, submitted his written testimony.
EXHIBIT (agh18a15)

Ira Holt, Hamilton, submitted a witness statement.
EXHIBIT (agh18a16)

Vince Fisher, Skyline Sportsman, Butte, stated that they are very concerned about CWD.

Tony Schoonen, Public Land Access, stated that they are opposed to this bill.

Bernard Lea, stated that he is opposed to this bill.

Darrell Baker, Anaconda Sportsman Club, stated that he is opposed to this bill.

Leroy Mehring, Skyline Sportsman, Butte, stated that he is opposed to this bill.

Larry Thomas, stated that he is opposed to this bill.

Toby Day, Board of Gallatin Wildlife Association, stated that they are opposed to this bill.

Bob Cole, Kalispell, submitted his written testimony.
EXHIBIT (agh18a17)

Doug White, Lake County, stated that he wants REP. BRUEGGEMAN to know the people of Lake County do not want this bill to pass.

Jim McCollum, Cascade County, stated that he is opposed to this bill.

Exhibits 18, 19, and 20 were handed to the secretary but were not referred to during the hearing of HB 379.

EXHIBIT (agh18a18)

EXHIBIT (agh18a19)

EXHIBIT (agh18a20)

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 8.8 - 12.9}

REP. SMITH asked Jack Lyon if there is any confirmation on how CWD is spread. **Jack Lyon** said that they do not know for sure how it is spread, but there is a theory that it is spread nose-to-nose. Also there is another theory that it can be spread by animals chewing on the bones of another animal that was infected.

REP. SMITH asked Jack Lyons, "Before I-143 the ranchers were working with the University of Montana students to figure out what CWD was. If we would have progressed without I-143 do you think we would have figured out what it was?" **Jack Lyons** said, "I honestly do not know. There is no cure in sight; it used to take three weeks to test and now it only takes four days. There is a live test for deer where they scrape their tonsils, but this does not work on elk. This is the only improvement that I have seen in the last couple of years."

REP. PETERSON asked Chuck Swysgood, Budget Director for the Office of Budget and Program Planning, if his office has any funds set aside for the potential liability of the State of Montana in regard to game farm lawsuits. **Director Swysgood** said, "No."

REP. PETERSON asked Director Swysgood if his office has had any discussion as to whether the legislature should address this issue. **Director Swysgood** said that they have had no discussions about this matter.

REP. PETERSON asked Director Swysgood if he considered this a potential liability to the State. **Director Swysgood** said that if the courts decide that the State of Montana is liable then this will create a fiscal problem.

REP. THOMAS asked Cindy Kafka if it is correct that game farms have been compared to child pornography, drug dealing, and prostitution. **Cindy Kafka** said, "Yes."

REP. THOMAS asked Cindy Kafka, "Did you hear Mr. Dakulski deny that is true?" **Cindy Kafka** said that they have it in a court document that he did say that.

REP. LAMBERT asked Jack Lyon, "What do you believe is the occurrence of CWD, if you were to check the wildlife? Or do you believe that this is only a game farm disease?" **Jack Lyon** said that in every case that it has been in a game farm that they have had to kill public animals. So it is clear what the source is. In Colorado the disease has been in the deer population for at least 40 years.

REP. LAMBERT asked Jack Lyons what percent of CWD would be in the wildlife in Montana. **Jack Lyons** said that the State of Montana has been testing wild animals since the CWD case in Philipsburg and it has been zero percent.

REP. LAMBERT asked Stan Frasier if there is scientific documentation that CWD is spread only by the game farms. **Stan Frasier** said that he did not say that it was only spread by the game farms, but there is ample evidence that it is spread through the game farms.

REP. LAMBERT asked Stan Frasier, "Do you still feel that elk farming is not a legitimate business?" **Stan Frasier** said, "Yes, elk farming is a pyramid scheme. They do not provide any viable products. It is a get-rich-quick scheme and these people that have got into this have made a bad business decision."

REP. BERGREN asked Cindy Kafka if there has been a change in the animal testing since the Philipsburg case. **Cindy Kafka** deferred to her husband, **Mr. Kafka** said that they test 100% of their animals that die over the age of 16 months.

REP. BERGREN asked Mr. Kafka how many states have banned harvesting of elk, and whether any of those states grandfathered in game farms. **Mr. Kafka** said that there are eight states that have banned the harvesting of animals, and five of them do not have existing operations. One, including Wyoming, has one that was grandfathered in. Montana is the only state that did not grandfather in game farms.

REP. LENHART asked Kyle Morken if he imports elk. **Kyle Morken** said that he is just a guide for an elk ranch. **REP. LENHART**

asked Kyle Morken where they get their elk. **Kyle Morken** said that all of their elk come from Montana.

{Tape: 3; Side: A; Approx. Time Counter: 0}

REP. SMALL-EASTMAN asked Jack Lyons if the CWD found in the deer in Colorado was in wild deer or game farm deer. **Jack Lyons** said that it was found in wild deer, and that it is spreading naturally in this herd. The only cure is to kill all of these deer.

REP. SMALL-EASTMAN asked Becky Mesaros other than killing the elk for hunting purpose, what the market is for elk. **Becky Mesaros** said that there is a meat market, which is very small, an antler market, and there is always photography.

REP. SMALL-EASTMAN asked Becky Mesaros if she has looked into an overseas market. **Becky Mesaros** said, "No, right now the United States imports tons of red deer from New Zealand and Australia." She also said that she would like to work on the market in the United States.

REP. PETERSON asked Becky Mesaros if she would explain the testing procedures. **Becky Mesaros** said that first they went to a farm and picked out the elk, and then a vet tested them for TB and Brucellosis. There are then three identifications on the elk that the vet needs to verify before the elk are loaded into the trailer. They are: DOL tag, the USDA tag, and the game farm license. The regulations are very strong, and the industry is not protesting those. There is 100% testing on any animal that dies on their ranch over 16 months old; and it does not matter if they shot it to put in their freezer or if a hunter shot it by accident.

REP. SMITH asked Stan Frasier, "You mentioned that there are no viable products from these animals, what is the reason for that?" **Stan Frasier** said that there is no meat market because of the special processing facilities that are required for this type of meat and also because of the imports. The Asians have stopped buying horns because of CWD. The sale of the breeding stock was where all the "big bucks" were in the game farming industry. It accounts for 56% of the profit in this industry.

REP. SMITH asked Stan Frasier if the meat has no market why the FWP gets such a good price for elk at their auctions. **Stan Frasier** said that he did not say it was not of value; he said that there was not really a market for it. They can still sell

the horns, the meat, and the breeding stock if they can find someone who wants to buy it. The problem is that because of the disease problems, no one wants it.

REP. SMALL-EASTMAN asked Becky Mesaros what New Zealand is buying from the elk farms here in Montana. **Becky Mesaros** said that New Zealand is not buying anything, the United States is importing deer from New Zealand. New Zealand is selling its red deer to the United States.

{Tape: 3; Side: A; Approx. Time Counter: 11.4 - 14}

REP. ANDERSON asked Pat Corbett, "You have been a elk farmer for quite a while. Was this business profitable for you before I-143?" **Pat Corbett** said, "Yes it was."

REP. RICE asked Dr. Smith if there is research for the development of live tests for CWD, and if there is any crossover from any other species that might be used on the elk to test for CWD. **Dr. Smith** said that there is research going on to develop a live test. There are some live tests that work, but only on certain species. He said that there is no live test that will cross species.

REP. RICE asked Dr. Smith if he would describe the process once the animal has been killed. **Dr. Smith** said that they can use several tests. There are few state diagnostic labs that do this. Wyoming and Colorado do their own testing, but some states send it to be tested. He said that you have to have special training, and he does not know all of the tests that are used.

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 15.6 - 19.2}

REP. RIPLEY said that he would like to address a couple of things. The first is CWD, which is a concern to everyone. Montana has been free from CWD for the last three years, and this includes the game farms. It is only a matter of time because it is in the wild, not in the game farm industry. The second is that the voters in his district did not pass I-143, and if you drop one county (Missoula), I-143 did not pass. Therefore, you are not overturning the wishes of the voters. The third is

lawsuits; there are five pending lawsuits, and they have not been decided. The fourth is economic development. This bill affects businesses that have diversified, and also the local community. The fifth is fraud. He asked, "Is all of the livestock industry a fraud?" Finally the last issue is the private property issue. This is a takings of private property rights. **REP. RIPLEY** urged a DO PASS on HB 379.

Sponsor: **REPRESENTATIVE VERONICA SMALL-EASTMAN, HD 6, Lodge Grass**

Opening Statement by Sponsor:

REP. SMALL-EASTMAN said that this bill is a housekeeping bill. What this bill does is take the words "endemic to the State of Montana" out when referring to native plants and puts in the words "species that occurred in Montana prior to 1805." The problem is that the word "endemic" has two different definitions, and the definition in this bill is different than the definition used by biologists. An amendment to clear up some of the language was prepared for this bill.

EXHIBIT (agh18a21)

Proponents' Testimony:

Sarah McCullough, Montana Audubon, said that this bill is important because there are two different definitions for the word "endemic." The first means "something that belongs to a particular people or country." The second means "something that is restricted to a locality or region." The problem is that in this bill, the word "endemic" was defined by the first definition, but biologists use the second definition. The purpose of this is so that the Department of Agriculture will have a list of criterion when listing a noxious weed. Sarah also handed out a fact sheet on the definition of "native plant."

EXHIBIT (agh18a22)

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape: 3; Side: B; Approx. Time Counter: 0 - 2.8}

REP. MALCOLM asked Sarah McCullough if, since some of the re-vegetation plans call for the native plants and they have developed since that time plants that are much more adaptive, and if we continue to use the words "native plants" would it have the effect of excluding those superior plants. He then stated that there are two options: either redo the revegetation plans or redo the native plant definition, and this is something that the committee really needs to think about. **Sarah McCullough** said that in the revegetation projects they use a mix of native plant seed that is wild that they have collected and that is grown in a greenhouse. That is the origin of most seed that is used in revegetation.

REP. WAITSCHIES asked Sarah McCullough, "How do you get any definitive accuracy by using the 1805 terminology?" **Sarah McCullough** deferred to **REP. SMALL-EASTMAN**, who stated that they went with 1805, because that is when Lewis and Clark were here, and their lawyers said not to use the terms "the beginnings of European time."

REP. WAITSCHIES asked Sarah McCullough, "How do you decide what is a native plant if there [are no] records of what was here?" **Sarah McCullough** said that there is some evidence, which can be found in journals and relates to the genus and species. Knapweed is a good example, because it does not appear in North America in journals. This definition is for this statute, and only for noxious weeds. This is only to distinguish between noxious weeds and native plants, and not to compare native plants with other native plants.

REP. LAMBERT asked **REP. SMALL-EASTMAN** if this definition of "native plant" will be used all throughout the code or just in the noxious weed section. **REP. SMALL-EASTMAN** said that it will only be used in the noxious weed section.

REP. ANDERSON asked **REP. SMALL-EASTMAN** if this bill was brought at the request of the Department of Agriculture. **REP. SMALL-EASTMAN** said "No," it was brought by the Montana Audubon Society."

REP. ANDERSON asked Sarah McCullough, if this definition is going to be used to weed out the noxious weeds, and if there is an area in between native plants and noxious weeds that will be perfectly acceptable as far as our vegetation in Montana. She also asked if there is a definition of plants that are not native plants but are not noxious weeds-maybe plants that have been here for a long time that are useful plants. **Sarah McCullough** said that one word that they have used is to call the plants "non-natives," which usually includes noxious weeds.

REP. ANDERSON asked Sarah McCullough if this distinguishes between native plants and other plants that have been here for a long time, but we can not really determine if they were here before 1805. **Sarah McCullough** said that it is a grey area, but most plants that are introduced to a new area do not become aggressively invasive. Only a few do, and those are the noxious weeds that need to be regulated.

REP. ANDERSON asked Sarah McCullough if this bill is designed to control noxious weeds. **Sarah McCullough** said, "No, it is only changing one definition in code, and once they have the definition they have the power to go after it and eradicate it."

Closing by Sponsor:

REP. SMALL-EASTMAN stated that this bill came forward to help keep the native plants separate from noxious weeds. This bill will be used to regulate, so that the species that were originally here are protected.

EXECUTIVE ACTION ON HB 299

Motion: **REP. PETERSON** moved that **HB 299 DO PASS.**

Discussion:

REP. WAITSCHIES said that the sponsor of this bill has added an amendment to this bill that will help make this a better bill and will protect the owner and the other party involved if a bull gets out.

Krista Lee Evans explained the amendment to the committee.

EXHIBIT (agh18a23)

REP. PETERSON said that what this does is strike the word "gross" and leaves the word "negligence." What this does is makes it so the owner is not always responsible, and neither is the other party. It is a give on both ends, and this will fix the strict liability law.

REP. LAMBERT said that she will vote for this bill because the amendment takes care of her concern.

Motion/Vote: **REP. PETERSON** moved that **HB 299 BE AMENDED. Motion carried 16-0**, by voice vote.

Discussion:

REP. BERGREN said that the amendment makes this bill a better bill, but he is still not going to vote for it because the bar is still too high. He also said that all this amendment does is lower the notch down one level from gross negligence to negligence.

Motion/Vote: **REP. PETERSON** moved that **HB 299 DO PASS AS AMENDED. Motion carried 12-4 with REPS. BERGREN, BIXBY, RYAN, and SMITH voting no**, by roll call vote.

January 28, 2003

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ADJOURNMENT

Adjournment: 5:50 P.M.

REP. DIANE RICE, Chairman

LISA GALLAGHER, Secretary

DR/LG

EXHIBIT (agh18aad)